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REMARKS/ARGUMENTS

35 U.S.C. 102 Rejections

The Examiner rejected claims 1 - 7, 12 - 15 and 17 - 20 as being anticipated by U.S. Publication No. 2002/0087622 to Anderson. Applicant disagrees and makes the following comments.

Applicant submits that the claims as presented herein are patentably distinguishable from Anderson. In order to show anticipation, the reference must teach every aspect of the claimed invention either explicitly or impliedly, and must teach each aspect of the claimed invention such as to permit a person skilled in the art to immediately appreciate the invention without recourse to impermissible hindsight or strained interpretation of the reference. Applicant submits that it is also inappropriate to take isolated passages from the reference out of context and out of order in finding anticipation of a claimed invention.

The first element of claim 1 requires "a series of local computer servers storing high quality format digital images thereon with each local computer server including a proxy arrangement for producing reduced quality format proxies of any of said stored high quality format digital images". As noted by the Examiner, Anderson discloses multiple client devices 12, such as a client computer, that store digital images equivalent to the high quality format digital images recited in claim 1. Applicant notes that the series of local computers does not and cannot include the photo-service websites 14, as suggested by the Examiner, since the third element of the claim requires that the proxies be sent to a photo-sharing website, and to read the first element as including the same photo-sharing websites would render the claim non-sensical. That being said, Applicant acknowledges that Anderson does teach local computer servers as exemplified by the client devices 12. However, Anderson does not disclose a proxy arrangement included within the local computer servers for producing reduced quality format proxies. Anderson discloses a gateway server 20 that fetches the high quality image from an indicated location, such as the local computer server, resizes and converts the image to a required format (see e.g. para. [0050]). Thus, in Anderson the "proxy" is produced at the gateway 20, and is only produced once a full copy of the digital image is downloaded to the gateway server 20. There is no explicit teaching, nor implied suggestion in Anderson that any reduced quality format proxy image is produced at the local computer servers, as recited herein (except, arguably, in the description at paras. [0055] - [0057], which is dealt with in

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detail below). Nor is there any suggestion or teaching that the gateway server 20 of Anderson is anything but a separate and distinct element from the client devices 12, and to modify Anderson to integrate the gateway server functions within the local computer servers would result in a system that could not function, nor solve the problem set out by Anderson, i.e. to provide a gateway to permit image retrieval from multiple client devices 12.

The second element of claim 1 requires "a transmission arrangement for transmitting said proxies to said photo sharing website to permit a user remote access to said proxies by accessing said website". Anderson impliedly includes a transmission arrangement in gateway 20, however the gateway 20 of Anderson does not transmit the proxy images to a photo-sharing website, it transmits, or passes, a URL to the resulting resized image file back to the web application 42 (see para. [0050]), which is a component of the gateway server 20. Nor is there any suggestion or teaching in Anderson that a user has remote access to any proxy image by accessing the photo-sharing website. At best, Anderson teaches that the user has remote access to the proxy images stored at the gateway 20.

The third element of claim 1 requires "a series of tools to allow the user to make modifications to the proxies and produce an instruction set in accordance with said modifications". By contrast, and as previously argued in response to the first Office Action, Anderson requires an actual copy of the high quality image be downloaded to the web application in order to apply user-specified modifications to the image (see para. [0051]). There is no suggestion or teaching in Anderson that a user can modify a proxy image at the website and generate a set of modification instructions that can then be applied to a high quality image record stored locally at the local computer server. In fact, Anderson specifically teaches uploading the full original image to the gateway server 20 in order to make modifications, which is one the problems that the present invention seeks to avoid. In rejecting this argument, the Examiner stated that Anderson teaches that the image accessed for modification is not necessarily the actual image itself, and referenced several instances of "image references" at paras. [0018] and [0042]. Clearly, the image references so noted by the Examiner are, in fact, file locators or directory locations where the image files are stored (see e.g. para. [0039]), they are not proxy images or any other form of reduced quality digital image. In order to effect any modification to the actual image, the image itself must be located, using the image reference, and downloaded to gateway server 20. There is no suggestion in Anderson that the image references are ever modified in any way (nor that such modification would result in a

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modification to the image); the image references merely provide a means for the gateway server 20 to locate a particular image, no matter where it is stored.

The Examiner also stated that Anderson teaches providing reduced quality images to the website for modification (e.g. resized or any resolution images at para. [0051]), and that the user can modify these images. However, as stated above, it is the gateway server 20 that produces these reduced quality images, not the local computer server. In addition, Anderson does not, as alleged by the Examiner, teach that a user can modify a proxy image and produce an instruction set. Reading para. [0051] of Anderson in context, it is clear that the web application 42 of gateway server 20 requests creation of versions of the image and then produces and provides a modified image, not an instruction set, according to the user's requested operation (i.e. color balance, contrast enhancement, etc.).

The fourth element of claim 1 requires "means for sending said instruction set to the local computer server having the original high quality format digital images used to produce said proxies". Since, as noted in relation to the third element above, the tools of Anderson do not generate an instruction set, but actually generate a modified image, no instruction set is available to be sent to the local computer server. In Anderson, what is sent to the web browser 54 of the local computer server is a link to the modified image itself, not an instruction set (see para. [0051]).

The Examiner also referenced the description at paras. [0055] - [0057] in support of his rejection of the argument presented in response to the first Office Action. Applicant submits that read in their entirety, without taking passages out of context, the referenced paragraphs do not teach any aspect of the present claimed invention. In particular, the referenced paragraphs describe an image upload operation that does not involve any modification of a proxy image at a photo-services website, nor, in fact, any modification to a proxy image. In response to an upload instruction from a user, the described process permits a web application 52 associated with gateway server 20 to locate and select images stored on a client device by interacting with gateway server 20. The web application then presents thumbnail images of the selected images to the user at a browser 54. The thumbnail images are created at the browser by servicing HTML web tags provided by the web application. The user then selects the images for upload by selecting desired thumbnails. Thus, it is the web application 52 (which is a component of, or associated to, the gateway server 20) that creates instructions to produce proxy images (i.e. thumbnails). The user's web browser interprets the

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instructions to render the thumbnails, and then sends upload instructions (by user selection of appropriate thumbnails) to the upload web application 52. The web application 52 then uploads the actual full high quality digital images (not their thumbnails or proxies) to the gateway server 20, which then completes the upload by transmitting the full digital images to a selected photo-sharing website. The user does not modify the thumbnails or any other proxy image.

Accordingly, Applicant submits Anderson fails to teach, or impliedly suggest, each and every one of the elements claim 1, and requests withdrawal of the rejection under 35 U.S.C. 102(e).

Applicant further submits that claims 2 - 6, which depend from claim 1 are also patentably distinguished from Anderson and requests withdrawal of their rejections under 35 U.S.C. 102(e). Applicant particularly notes that there is no teaching or suggestion in Anderson that each of the "local server computers includes means for retrieving a stored high quality format digital image associated with an instruction set received with respect to a particular proxy and means for modifying the retrieved high quality format digital image in accordance with the instruction set and printing the modified high quality format digital image", as recited in claim 3.

Independent claim 12 recites a photo-sharing web server comprising means for receiving a reduced quality proxy copy of a digital image from a local server that stores the digital image in a high quality image format, and for making said proxy copy available to a user over the internet; modification tools allowing the user to make modifications to said proxy copy, means for recording modification instructions, in accordance with the modifications made to said proxy copy, for applying to the digital image stored in the high quality image format; and means for sending said modification instructions to any of a series of local servers to retrieve the digital image stored in the high quality image format and to produce a modified high quality image in accordance with the modification instructions. The photo-sharing web server is the counterpart device to the system of claim 1, and Applicant reiterates the arguments made above in respect to claim 1. In particular, Applicant reiterates the arguments made in respect of the first, third and fourth elements of claim 1, and further notes that there is no teaching or suggestion in Anderson of producing a modified high quality image at the local server in accordance with modification instructions recorded in accordance with user modifications to a proxy copy of the image. Accordingly, Applicant submits that claim 12 is patentable in view of Anderson, and requests withdrawal of the rejection under 35 U.S.C. 102(e).

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Independent method claim 13 has been amended to specifically recite that the lower quality copy is produced at the local file server, to accord in scope to previously presented claim 1 as discussed above. Accordingly, this limitation was previously present and no further search is required. Claim 13 now recites a method of storing, accessing, modifying and printing digital photographic records comprising: storing a digital record in a high quality image format on a local file server, producing, at the local file server, a substantially lower quality copy of said digital record and transmitting the copy to a website for access by an authorized user, recording user-specified modification instructions, received from modification tools on the website interacting with the copy, with respect to a modified image that the user wants reproduced on a charge basis, forwarding said modification instructions to a retail outlet, retrieving the high quality record associated with said modification instructions at the retail outlet, and producing at said retail outlet a high quality modified image using said retrieved high quality record and said modification instructions. Applicant again reiterates the arguments made above in respect to counterpart system claim 1 in support of method claim 13, and its respective dependent claims. Accordingly, Applicant submits that claim 13, and its respective dependent claims, are patentable in view of Anderson, and requests withdrawal of the rejections under 35 U.S.C. 102(e).

35 U.S.C. 103 Rejections

The Examiner rejected claims 8, 9, 11 and 16 as being unpatentable over Anderson, in view of U.S. Patent No. 6,760,128 to Jackson, and rejected claim 10 as being unpatentable over Anderson, in view of Jackson, and further in view of U.S. Publication No. 2001/0032151 to Paul.

Claims 8 - 11 and 16 are dependent on claims 1 and 13, respectively, and include all the limitations discussed above. Applicant reiterates that there is no teaching or suggestion in Anderson that a user can modify a proxy image at the website and generate a set of modification instructions that can then be applied to the locally stored high quality image record. In fact, Anderson directly teaches away from such a feature by requiring that the high quality image be resident at a gateway server 20 in order to undergo user-specified modifications (see para. [0051]).

Jackson merely discloses a photo order fulfillment system in which images are uploaded to a website, and prints of the images ordered (see e.g. col. 6, lines 24 - 58). There is no

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suggestion or teaching in Jackson that only proxy images are uploaded to the website, nor that modifications to the images are made by a user manipulating proxy images. Paul discloses a system in which images can be associated with sound recordings. Again, the images are uploaded to the website where they can be viewed or associated with a desired sound recording (see e.g. paras. [0031] - [0037]). There is no suggestion or teaching in Paul that modification instructions are created by modifying a proxy image and then transmitting the modification instructions to a local server where the full image is stored. Accordingly, the combination of Anderson with Jackson and/or Paul does not result in the invention as presently claimed, and Applicant respectfully requests withdrawal of the rejections under 35 U.S.C. 103(a).

No fee is believed due. However, if a fee is due, the Commissioner is hereby authorized to charge any additional fees, and credit any overpayments to Deposit Account No. 501593, in the name of Borden Ladner Gervais LLP.

Applicant submits that the application is now in condition for allowance, and favorable action to that end is respectfully requested.

Respectfully submitted,
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